

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5999 of 2016

M. R. Sahu S/o Mayaram Sahu, Aged About 45 Years R/o Zero Point, Baronda, S.F.R.T.I., Raipur, Police Station And Post Raipur, District Raipur, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: Chief Secretary, Forest Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur, (Chhattisgarh)
2. Principal Chief Conservator Of Forest, Aranya Bhawan, Chhattisgarh, Raipur, District Raipur, (Chhattisgarh)
3. Director, State Research And Training Centre, Zero Point, Near Vidhan Sabha, Baloda Bazar Road, Raipur, (Chhattisgarh)
4. Shri Kaushlendra Singh, Additional Principal Chief Conservator Of Forest (Administration), Raipur, District Raipur, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Manoj Paranjpe, Advocate
For State	:	Shri R.K. Gupta, Dy. G.A. Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

07/11/2016

Heard.

1. The transfer order is under challenge on the ground of malafide exercise of power.
2. Learned counsel for the petitioner submits that the transfer order has been passed in background of earlier litigation.
3. It is the case of the petitioner that while the petitioner was posed in the State Forest Research & Training Centre, Raipur, he was transferred to Bijapur vide order dated 14.07.2014 against which, the petition was filed and vide order dated 24.07.2014, the transfer order was stayed. Thereafter, the petitioner was suspended vide order dated 25.09.2014.

The petitioner again approached this Court and suspension order was also stayed vide order dated 14.10.2014. While matter stood thus, both the writ petitions were finally disposed off vide order dated 06.01.2016 in view of statement made by the State. Thereafter, the petitioner's transfer order earlier passed, was not given effect to and later on, his suspension order was also revoked on 21.07.2016.

4. Learned counsel for the petitioner submits that the petitioner has now been transferred by the State Government on the proposal made by respondent No.4, who proposed transfer of the petitioner to Jagdalpur or to Surguja circle whereas the petitioner has already spent a long time of posting in the scheduled area earlier. He submits that the State acting on the proposal has now transferred the petitioner vide order dated 18.10.2016 to Narayanpur.

5. It appears that from the background of dispute that the petitioner's transfer order which was earlier passed and challenged in the earlier petition was not given effect to and later on, the suspension order has also been revoked, while the order remained stayed by the order of this Court. It appears that the petitioner's grievance is that the transfer of the petitioner is based on the proposal made by respondent No.4, who had enmity with the petitioner because the petitioner had given a notice to initiate contempt proceedings.

6. It is found that the transfer has been affected not by respondent No.4 but by the State Government. There is no specific allegation against the Secretary of the department who has passed the transfer order. Merely because, respondent No.4 had made a proposal, it cannot be inferred that the Secretary was also acting malafide against the petitioner. However, there is one aspect of the matter on which the respondent should consider the case of the petitioner against transfer order.

7. This Court in large number of cases has directed the State to consider the posting of officers outside the scheduled area in those cases where they have remained posted in the core scheduled area and scheduled area for long period in their service, keeping in view the policy dated 03.06.2015 relating to transfer of officers to and from core scheduled area and scheduled area.

8. According to the petitioner's submission, the petitioner has already remained posted from 2003 to 2006 at Sankra Dhamtari, 2007 to 2012 at Kondagaon, 2012 to 2013 at Kanker.

9. Though the petitioner having already completed normal tenure of posting at the present place is required to be transferred, the State should consider his posting at any other place which is outside the core scheduled area and scheduled area. Let the matter be considered by the State Government within a period of four weeks and appropriate orders may be passed in the matter. For a period of four weeks, no coercive steps shall be taken against the petitioner.

10. With the aforesaid observations, the petition is disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Rekha